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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/534,493

06/06/2005

Angelo Bettinzoli

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EXAMINER

ST CLAIR, ANDREW D

ART UNIT

PAPER NUMBER

3749

MAIL DATE

DELIVERY MODE

08/19/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/534,493	Applicant(s) BETTINZOLI, ANGELO	
	Examiner ANDREW ST CLAIR	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/02/2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/10/2005, 5/02/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, as explained in the non-final office action.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6, and 10-14 are rejected under 35 U.S.C. 102(b) as being anticipated by De'Longhi et al. (EP 0485645).

With respect to claim 1, De'Longhi et al. disclose a central body 5, having a flame distribution ring, and at least one external body 4, fluidly separated from said central body and substantially concentric with it, having at least one second flame distribution ring, as well as means 9 for separately feeding the mixture of primary air and gas to said central body and to said at least one external body, wherein said means for feeding the at least one external body comprises at least one horizontal mixing chamber 11 with a radial Venturi effect (col. 4, ln. 25-28).

With respect to claim 2, De'Longhi et al. disclose the claimed subject matter further comprising one or more inlets 18 for the primary air located above the cooking hob (col. 5, ln. 9-13), and means 6 of fluid connection of said one or more primary air inlets with said means for separately feeding the mixture of primary air and gas to said central body and to said at least one external body.

With respect to claim 3, De'Longhi et al. disclose the claimed subject matter, wherein said means of fluid connection define a single circuit supplying primary air to said means for separately feeding the mixture of primary air and gas. (fig. 2 depicts element 6 allowing passage of air proximate to the outlets of said separately feeding means 9.)

With respect to claim 4, De'Longhi et al further disclose the claimed subject matter, wherein said means for feeding said central body comprise a horizontal mixing chamber with a radial Venturi effect. (fig. 2; col. 4, ln. 25-28).

With respect to claim 5, De'Longhi et al. further disclose the claimed subject matter wherein said horizontal mixing chamber with a radial Venturi effect of said means for feeding said at least one external body and/or of said means for feeding the central body are obtained in said at least one external body and/or in said central body. (fig. 1; feeding means 9 is considered to be "obtained in" the concentric central and external bodies in the same manner disclosed by applicant: it is operatively connected thereto.)

With respect to claim 6, De'Longhi et al. further disclose the claimed subject matter, wherein said means for feeding said at least one external body comprise two or more horizontal mixing chambers with a radial Venturi effect. (De'Longhi is considered to have two horizontal

mixing chambers, in that “second venturi-effect duct” 11 has an elongated, conical chamber, and a second chamber adjacent to element 7).

With respect to claim 10, De’Longhi et al. disclose a top covering element 5 of said central body, the upper wall of said at least one horizontal mixing chamber with a radial Venturi effect of the means for feeding the central body coinciding with a lower wall of said covering element. (fig. 2).

With respect to claim 11, De’Longhi et al. further disclose the claimed subject matter, wherein said means for separately feeding the mixture of primary air and gas to said central body and to said at least one external body are respectively actuated by separate taps 29. (figs. 1 and 2 depict separate inlet nozzles, or “taps.”)

With respect to claim 12, De’Longhi et al. further disclose the claimed subject matter, wherein the internal profile of said at least one external body presents, in plan, one or more cavities. (fig. 2, external body 4 has at least one cavity.)

With respect to claim 13, De’Longhi et al. further disclose the claimed subject matter, wherein said at least one external body and said central body are made in a single piece. (Elements 4 and 5 of De’Longhi are considered to be “made in a single piece,” in that they are assembled into a single unit.)

With respect to claim 14, De’Longhi et al. disclose a central body 5, having a first flame distribution ring, and at least one external body 4, fluidly separated from said central body and substantially concentric with it, having at least one second flame distribution ring, as well as at least one horizontal mixing chamber (chamber immediately above tube 11) with a radial Venturi

effect to separately feed the mixture of primary air and gas to said central body and to said at least one external body.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over De'Longhi et al. (EP 0485645).

With respect to claim 7, De'Longhi et al. disclose all of the claimed subject matter except two or more external circumferential bodies, fluidly separated, each one of which comprises a horizontal mixing chamber with a radial Venturi effect. De'Longhi et al. does disclose a single circumferential body, fluidly separated, comprising a horizontal mixing chamber with a radial Venturi effect. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide De'Longhi et al. with a duplicate external body of the same

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structure because duplication of parts is considered *prima facie* obvious. MPEP 2144.04, *In re Harza*, 274 F.2d 669 (CCPA 1960).

With respect to claim 8, De'Longhi et al disclose all of the claimed subject matter except said at least one second flame distribution ring comprises two concentric flame distribution rings. De'Longhi et al. does disclose a single concentric flame distribution ring. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide De'Longhi et al. with a second concentric flame distribution ring because duplication of parts is considered *prima facie* obvious. MPEP 2144.04, *In re Harza*, 274 F.2d 669 (CCPA 1960).

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over De'Longhi et al. (EP 0485645) in view of Bettinzoli et al. (WO 02/02991)

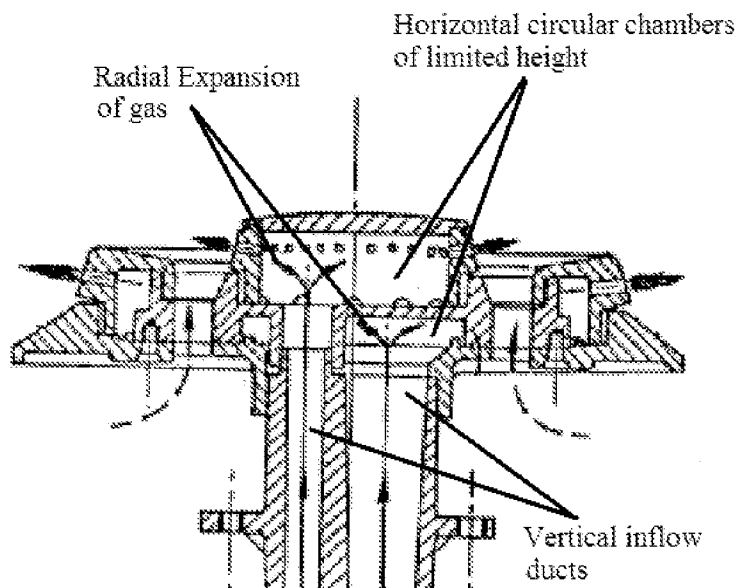
With respect to claim 9, De'Longhi et al. disclose all of the claimed subject matter except a top covering element of said at least one external body, an upper wall of said at least one horizontal mixing chamber with a radial Venturi effect of the means for feeding said at least one external body coinciding with a lower wall of said covering element. Bettinzoli et al. disclose a top covering element 8 of said at least one external body 6, the upper wall of said at least one horizontal mixing chamber 14 with a radial Venturi effect of the means for feeding said at least one external body coinciding with a lower wall of said covering element. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the mixing chamber and covering element structure of Bettinzoli et al. for external body of De'Longhi et al. because it is within the purview of one of ordinary skill in the to modify known structure by substitution of one element for another known in the field to achieve a predictable result.

Response to Arguments

3. In re claims 1-14, Applicant's arguments have been considered and are responded to below.

The bulk of Applicant's arguments are directed at the difference between a radial Venturi effect and a axial Venturi effect. While Examiner appreciates that this may be what Applicant intended by the claim language, Examiner disagrees that the claims as written are so limited; Applicant's interpretation, while reasonable, is not the *only* reasonable interpretation of the claim language. The tube 11 of De'Longhi is considered to provide a radial Venturi effect in that it provides a Venturi effect by means of a tube of varying radius.

Moreover, even if Examiner accepted what appears to be an unduly narrow interpretation of the claim language, De'Longhi nevertheless discloses this functionality. That is to say that De'Longhi discloses "a horizontal circular chamber of limited height immediately downstream of the vertical inflow duct." (Applicant's arguments, page 10.) See the figure below.



Modified Figure 2 of De'Longhi

Applicant's only other argument is "[In De'Longhi] primary air is sucked within the burner by the axial Venturi tube 10, 11 from below the cooking hob." Applicant characterizes the air passing through the tubes 10 and 11 as primary air; as made clear in the non-final rejection the air inlets 18 are considered to anticipate this claim limitation in that they are above the cooking hob and allow for passage of air that can be characterized as "primary air."

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW ST CLAIR whose telephone number is (571)270-3513. The examiner can normally be reached on Monday - Friday, 8 a.m. - 6 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve McAllister can be reached on 571-272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew St.Clair/
Examiner, Art Unit 3749

/Steven B. McAllister/
Supervisory Patent Examiner, Art Unit 3749